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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,461	08/18/2003	Qi Xiang	0180144	4140
25700 7590 09/02/2009 FARJAMI & FARJAMI LLP 26522 LA ALAMEDA AVENUE, SUITE 360 MISSION VIEJO, CA 92691				
EXAMINER				
NGUYEN, JOSEPH H				
ART UNIT		PAPER NUMBER		
2815				
MAIL DATE		DELIVERY MODE		
09/02/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/643,461	Applicant(s) XIANG ET AL.
Examiner JOSEPH NGUYEN	Art Unit 2815

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 August 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1, 3, 6, 9, 10, 13, 15, 19 and 21.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/Kenneth A Parker/
 Supervisory Patent Examiner, Art Unit 2815

Continuation of 11, does NOT place the application in condition for allowance because: At first, it is noted that the final rejection mailed on 06/05/2009 is based on the amendment filed on 03/09/2009 and thus the final rejection should be proper herein. There is no record of any Office Action dated March 24, 2009 as asserted by applicant. With respect to claims 1, 9 and 15, applicant argues Solomon does not disclose FET including a first gate dielectric having a first coefficient of thermal expansion and a first gate electrode having a second coefficient of thermal expansion, where the first gate electrode and the first gate dielectric are selected such that said second coefficient of thermal expansion is greater than said first coefficient of thermal expansion so as to cause an increase in carrier mobility in the channel because Solomon does not address whether the FET is an NFET or a PFET that determines the required relationship between the CTE of the gate electrode and the CTE of gate dielectric to cause an increase in carrier mobility in the channel. However, neither claim 1 nor 9 nor 15 recites whether the FET must be an NFET or a PFET. More importantly, as stated in the Final Rejection, Solomon discloses the second coefficient of thermal expansion is greater than the first coefficient of thermal expansion and thus the difference in the first CTE and the second CTE inherently causes an increase in carrier mobility in the channel. See pages 2 and 3 of the Final Rejection dated 06/05/2009. In other words, Solomon discloses all the structures set forth in claims 1, 9 and 15. Since the rejection of base claims 1, 9 and 15 is proper, the rejection of dependent claims 3, 6, 10, 13, 19 and 21 still stands accordingly.